

In re Elysium Health-ChromaDex Litigation

17-cv-7394 (LJL)

ORDER

The letter motions to seal at Dkt. Nos. 200, 202, 207, 220, 231, 238, 241, 248, 259, 261, 264, 271, and 292 are granted in part and denied in part, as modified by the parties' joint letter at Dkt. No. 313 and subject to potential reconsideration and unsealing by the Court when and if this case proceeds to trial.

The request to redact confidential competitive business information in Dkt. Nos. 227, 227-1, and 227-2, as highlighted for redaction in Dkt. No. 313, Ex. A, is granted.

The requests to redact information identifying Elysium’s confidential, strategic business relationship with ingredient manufacturers and encapsulators in Dkt. Nos. 230-32, 257-4, 257-7, 257-8, 257-9, 257-13, 257-14, and 257-18, as highlighted for redaction in Dkt. No. 313, are granted.

The requests to redact private third-party information in Dkt. Nos. 257-4, 257-8, 257-9, 257-23, 257-30, 257-33, 251-8, and 251-9, as highlighted and identified for redaction in Dkt. No. 313, are granted.

The requests to redact confidential financial information in Dkt. Nos. 257-9, 257-27, 223-18, 251-6, and 223-19, as highlighted and identified for redaction in Dkt. No. 313, are granted.

The request to redact slide page numbers 1, 4–55, and 58 of Dkt. No. 209-7 is granted in part and denied in part. The request to redact page numbers 4–55 and 58 is granted; the request to redact slide page number 1 is granted as to the three embedded pages but denied as to the slide page itself.

The requests to redact confidential financial information in the expert report of Lance E. Gunderson at Dkt. Nos. 223-21, 274-3, 209-1, and 277-4, as highlighted for redaction in Dkt.

No. 293-1, are granted.

The request to redact information about confidential business strategies in Dkt. No. 280-6, as identified for redaction in Dkt. No. 293-3,¹ is granted.

The request to redact confidential financial information in Dkt. Nos. 286 and 221, as identified for redaction in Dkt. No. 293-12,² is granted.

The request to redact confidential financial information in Dkt. Nos. 291 and 249, as identified for redaction in Dkt. No. 293-7, is granted.

The request in Dkt. No. 313 in the second to last row on page 14 of 16 references “224-1 Ex. A to the Declaration of Brian Weir ISO Elysium’s MSJ (*Expert Rebuttal Report of Brian Sowers*),” and states that the proposed redactions are identified at Dkt. No. 293-1. Dkt. No. 224-1, which is Exhibit A to the Declaration of Colin B. Weir, is the rebuttal expert report of Colin B. Weir. Dkt. No. 293-1 identifies proposed redactions to the expert report of Lance E. Gunderson, which have been approved above. The request in Dkt. No. 313 in the third to last row on page 15 of 16 references “277-5 Ex. F to Declaration of Joe Tuffaha ISO ChromaDex’s Daubert Motion (*Expert Rebuttal Report of Brian Sowers*)” and states that the proposed redactions are identified at Dkt. No. 293-1. Dkt. No. 277-5, which is Exhibit F to the Declaration of Joe Tuffaha, is the rebuttal expert report of Colin B. Weir. As stated, Dkt. No. 293-1 identifies proposed redactions to the expert report of Lance E. Gunderson, which have been approved above. The parties have not given the Court the information necessary to determine to what these requests refer. They are therefore denied without prejudice to refile by no later than March 4, 2022 in a letter identifying with specificity what the requests are and the relevant docket numbers. If such a request is not filed, any outstanding requests for redactions as to the expert rebuttal reports of both Colin B. Weir and Brian Sowers are denied, and the reports must both be filed in full without redactions on the public docket by no later than March 10, 2022.

The request in Dkt. No. 313 on page 16 of 16 references “221 Elysium’s MOL ISO of its MSJ” and states that the proposed redactions are identified at Dkt. No. 293-12. Dkt. No. 221 is Elysium’s Rule 56.1 Statement; Dkt. No. 293-12 identifies proposed redactions to ChromaDex’s Reply to Elysium’s 56.1 Response which have been approved above. The parties have not given the Court the information necessary to determine to what this request refers. It is therefore

¹ The joint letter at Dkt. No. 313, page 14 of 16, states that the proposed redactions to Dkt. No. 280-6 are identified in Dkt. No. 293-2; however, Dkt. No. 293-2 identifies proposed redactions to the rebuttal expert report of Colin B. Weir, not to the Material Transfer Agreement (MTA) Program Monthly Update at Dkt. No. 280-6. The relevant proposed redactions which the Court approves here are identified in Dkt. No. 293-3.

² The joint letter at Dkt. No. 313, page 15 of 16, states that the proposed redactions to Dkt. No. 286 are identified in Dkt. No. 293-2; Dkt. No. 293-2 identifies proposed redactions to the rebuttal expert report of Colin B. Weir, not to ChromaDex’s Response to Elysium’s 56.1 Statement at Dkt. No. 280-6. The relevant proposed redactions which the Court approves here are identified in Dkt. No. 293-12.

denied without prejudice to refiling by no later than March 4, 2022 in a letter identifying with specificity what the request is and the relevant docket numbers. If such a request is not filed, any outstanding request for redactions as to Elysium's memorandum of law in support of its motion for summary judgment is denied, and the memorandum must be filed in full without redactions on the public docket by no later than March 10, 2022.

Any outstanding sealing requests for documents identified in Dkt. Nos. 200, 202, 207, 220, 231, 238, 241, 248, 259, 261, 264, 271, and 292 that were not referenced in Dkt. No. 313 and this Order are denied as moot.

The parties are directed to ensure that versions of all the above-referenced documents are filed publicly on the docket with only the redactions approved in this Order by no later than March 10, 2022. The parties are further directed to ensure that all documents referenced in Dkt. Nos. 200, 202, 207, 220, 231, 238, 241, 248, 259, 261, 264, 271, and 292 and filed provisionally under seal but not addressed in Dkt. No. 313 are filed publicly in full on the docket by no later than March 10, 2022.

The Clerk of Court is respectfully directed to close the motions at Dkt. Nos. 200, 202, 207, 220, 231, 238, 241, 248, 259, 261, 264, 271, and 292.

SO ORDERED.

Dated: March 3, 2022
New York, New York



LEWIS J. LIMAN
United States District Judge